

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/696,683	10/29/2003	Gary L. Heiman	STAN/31	5261	
26875	7590 01/03/2006		EXAMINER		
WOOD, HE	RRON & EVANS, LLP	BEFUMO, JE	BEFUMO, JENNA LEIGH		
2700 CAREW TOWER 441 VINE STREET		ART UNIT	PAPER NUMBER		
	CINCINNATI, OH 45202				
			DATE MAILED: 01/03/2006	DATE MAILED: 01/03/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

			Hz.		
		Application No.	Applicant(s)		
Office Action Summary		10/696,683	HEIMAN, GARY L.		
		Examiner	Art Unit		
		Jenna-Leigh Befumo	1771		
The MAILING D Period for Reply	PATE of this communication app	ears on the cover sheet with the	correspondence address		
WHICHEVER IS LON - Extensions of time may be a after SIX (6) MONTHS from - If NO period for reply is spec - Failure to reply within the se	TUTORY PERIOD FOR REPLY GER, FROM THE MAILING DA valiable under the provisions of 37 CFR 1.13 the mailing date of this communication. ified above, the maximum statutory period w t or extended period for reply will, by statute, fice later than three months after the mailing ent. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be will apply and will expire SIX (6) MONTHS from cause the application to become ABANDON	DN. timely filed m the mailing date of this communication. IED (35 U.S.C. § 133).		
Status					
1)⊠ Responsive to o	communication(s) filed on 14 Oc	ctober 2005.			
2a) This action is FI					
3) Since this applie	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accord	dance with the practice under E	x parte Quayle, 1935 C.D. 11,	153 O.G. 213.		
Disposition of Claims					
4a) Of the above 5) Claim(s) 6) Claim(s) 7) Claim(s)		vn from consideration.			
Application Papers					
10) The drawing(s) f Applicant may no Replacement draw	is objected to by the Examiner iled on is/are: a) accept accept request that any objection to the owing sheet(s) including the correction aration is objected to by the Ex	epted or b) objected to by the drawing(s) be held in abeyance. S ion is required if the drawing(s) is o	ee 37 CFR 1.85(a). bjected to. See 37 CFR 1.121(d).		
Priority under 35 U.S.C.	6 119				
12) Acknowledgmen a) All b) Sor 1. Certified c 2. Certified c 3. Copies of applicatio	it is made of a claim for foreign me * c) None of: copies of the priority documents copies of the priority documents the certified copies of the prior n from the International Bureau detailed Office action for a list of	s have been received. s have been received in Applica ity documents have been received (PCT Rule 17.2(a)).	ntion No ved in this National Stage		
	Patent Drawing Review (PTO-948)	4) Interview Summar Paper No(s)/Mail I	Date		
Information Disclosure St. Paper No(s)/Mail Date	atement(s) (PTO-1449 or PTO/SB/08)	6) Other:	Patent Application (PTO-152)		

Application/Control Number: 10/696,683 Page 2

Art Unit: 1771

DETAILED ACTION

Response to Arguments

1. Applicant's election with traverse of claims 1 - 16 and 33 in the reply filed on October 14, 2005 is acknowledged. Upon further review of the claims the Examiner has decided that it is not necessarily the weave structure, but instead the type of warp and west yarns used to make the fabrics which produce the distinct species. Thus, the previous restriction requirement is withdrawn and a new restriction is set forth below.

2. With regards to the applicant's arguments about the claimed invention being drawn to a single invention which would be encompassed by the same search, it is noted that to the fact that multiple species could possibly be found in similar search areas, is not sufficient to traverse a species election. As set forth in the restriction requirement, the applicant must provide some showing that the species are not patentably distinct and instead are obvious variants of each other. However, the applicant's arguments in fact refused to set forth on the record that the species are obvious variants of each other and not patentably distinct species.

Election/Restrictions

3. This application contains claims directed to the following patentably distinct species of the claimed invention: a woven fabric comprising at least one filling yarn comprises a synthetic filament yarn (claims 1 - 12, 14 - 16, and 33) and a woven fabric comprising at least one warp yarn comprises a synthetic filament yarn (claims 17 - 28, 30 - 32, and 34); and a woven fabric comprising at least one filling yarn comprising a synthetic filament yarn and at least one warp yarn comprising a synthetic filament yarn (claims 13 and 29).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 4. Should the applicant choose the group of claims where at least one of the filling yarns is a filament yarn; the applicant must make the following species election.
- 5. This application contains claims directed to the following patentably distinct species of the claimed invention: a woven fabric comprising at least one filling yarn including a synthetic filament yarn and at least one filling yarn including a spun yarn (claims 5 8); and a woven

Art Unit: 1771

fabric comprising at least one filling yarn including a synthetic filament yarn and at least one warp yarn including a spun yarn (claims 9 - 12).

Page 4

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-4, 14-16, and 33 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Should the applicant choose the group of claims where at least one of the warp yarns is a filament yarn; the applicant must make the following species election.

Art Unit: 1771

7. This application contains claims directed to the following patentably distinct species of the claimed invention: a woven fabric comprising at least one warp yarn including a synthetic filament yarn and at least one warp yarn including a spun yarn (claims 21 - 24); and a woven fabric comprising at least one warp yarn including a synthetic filament yarn and at least one filling yarn including a spun yarn (claims 25 - 28).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 17 - 20, 30 - 32, and 34 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

enna-Leigh Befumo

December 26, 2005